

Proposed Changes to Public Charge Rules

Frequently Asked Questions (FAQs) for School Communities

Students and families may have expressed fear about signing up for benefits in light of the federal government's recent announcement in regards to public charge. Public charge is the government's term for determining if an individual will become dependent on government benefits.

On October 10, 2018 the Department of Homeland Security (DHS) published the proposed public charge changes in the Federal Register. The District supports our immigrant community and will work closely with the Mayor's Office along with City Departments and community organizations to provide updated information on the impact of these proposed changes.

The public comment period will run through December 10, 2018. To make your voices heard, submit public comments at <https://protectingimmigrantfamilies.org/#take-action>. Please note that all information submitted through this comment form will be shared directly to the federal government at Regulations.gov.

Here are a few important points regarding the public charge rule:

- **The proposed public charge rule is just a proposal. The law has not changed yet.**
- This law only applies to individuals seeking admission into the U.S. or applying for adjustment of status. This provision of the law **does not** apply to refugees, asylees, special immigrant juvenile visa holders, victims of trafficking, victims of crime, and other special categories of immigrants.
- Public charge and this proposed rule **do not** apply to the naturalization process through which lawful permanent residents apply to become U.S. citizens.
- **Every case is unique so contact your attorney if you already have one.** San Francisco residents can connect to free community legal immigration services. Call [Bay Area Legal](http://BayAreaLegal.org) at (800) 551-5554 or visit immigrants.sfgov.org

The following FAQs will provide you with additional information on the proposed public charge rule.

1. What is current law?

Currently, immigration officers decide public charge by evaluating whether an applicant for a green card or an individual seeking to enter the U.S. on certain visas is likely to become primarily dependent on the government for support.

2. How is this currently decided?

To decide this, immigration officers rely on multiple factors. They may also rely on the "affidavit of support," which is a contract signed by the immigrant's sponsor, indicating that the sponsor will financially support the immigrant.

Under existing policy, immigration officers also consider whether an immigrant applying for a green card or entry into the U.S. has used cash aid (such as TANF, also known as "welfare" or SSI) or long-term institutionalized care. Immigrants who have are more likely to be denied admission on public charge grounds. **However, use of publicly-funded health care, nutrition, and housing programs are not considered negative factors for purposes of public charge because our current policies recognize that these programs are vital to keeping our communities healthy and safe and individuals productive.**

3. What are the proposed changes

While the test for whether someone is likely to become a public charge will still be prospective, instead of assessing whether an applicant is likely to become primarily dependent on the government for support, **the proposal defines a public charge as a person who merely uses an included government program. Past and current use of a broader array of benefits may be considered.**

4. What are other considerations in the public charge determination under the new proposal?

The proposal would allow immigration officers to consider as a factor English proficiency (positive), or lack of English proficiency (negative). Past use of immigration fee waivers would also be a negative factor. The proposal would also require immigrants to attach a credit report along with a Declaration of Self-Sufficiency.

5. What types of benefits may be used under the new proposal?

The proposal expands the list of publicly-funded programs that immigration officers may consider when deciding public charge. **The proposed regulation changes policies that have been in place for decades that exempt an individual's use of health care, nutrition and housing programs from consideration.**

Under the proposed rule, past and current use of Medicaid, the Supplemental Nutrition Assistance Program (SNAP, formerly known as Food Stamps), Section 8 housing assistance, and the Low-Income Subsidy for the Medicare Part D prescription drug benefit can be used as evidence that a green card or visa applicant is inadmissible under the public charge ground.

The proposal also considers that all use of cash aid, including TANF, SSI, and any state or local cash assistance program, could make an individual inadmissible under the public charge ground.

6. If the proposed rule is implemented, will past use of programs be considered?

The proposed rule will not be retroactive if it becomes final. It will not punish past use of newly included programs, such as Medicaid, housing assistance and SNAP (Food Stamps) if they were used before the final rule goes into effect. Families will have a 60-day period after the final rule is published to disenroll from a program. Immigrants should consult with an immigration expert who understands public charge to learn whether the public charge rule even applies to them or their family.

7. What is not considered in the public charge determination under the new proposal?

Benefits received by family members of the immigrant would not be considered in the public charge determination. In addition, the proposal does not change long-standing policies that allow immigrants to access emergency medical care and disaster relief without public charge repercussions. The use of free and reduced school lunch and after school programs will also not be considered.

To make your voices heard by December 10, 2018, submit public comments at <https://protectingimmigrantfamilies.org/#take-action>.

The content for this FAQ is from the Immigrant Legal Resource Center webpage. For more information and updates, go to www.ilrc.org/public-charge.